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UNITED STATES DEPARTMENT OF COMMERCE
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MV

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/692,762 10/19/00 GALVIN

D 281241-00001

029694 PM82/1012
PIETRAGALLO, BOSICK & GORDON
ONE OXFORD CENTRE, 38TH FLOOR
301 GRANT STREET
PITTSBURGH PA 15219-6404

EXAMINER

WALSH, J	ART UNIT	PAPER NUMBER
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3629
DATE MAILED:

10/12/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary	Application No.	Applicant(s)	
	09/692,762	GALVIN, DONNA	
	Examiner John B. Walsh	Art Unit 3629	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 25 July 2001.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 35 and 38-52 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) 35,38-41 and 50-52 is/are allowed.
- 6) Claim(s) 42-49 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
 - a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>7</u>	6) <input type="checkbox"/> Other: _____

DETAILED ACTION***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 42-49 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

3. While applicant may be his or her own lexicographer, a term in a claim may not be given a meaning repugnant to the usual meaning of that term. See *In re Hill*, 161 F.2d 367, 73 USPQ 482 (CCPA 1947). Claim 43, lines 3-4 recites "a first spring biasing the dead bolt". Claim 42 recites, "the first latch is a dead bolt" wherein claim 35 recites, "a first spring biasing the first latch". The applicant has claimed a dead bolt biased by a spring. It is unclear if applicant is claiming a latch bolt or a dead bolt, since the definition of a dead bolt is a bolt moved by a knob or key without action of a spring.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 43 and 44 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over U.S. Patent No. 1,681,147 to Dexter. Dexter '147 discloses a first latch (6) movable to an extended position, a partially retracted position (position between extended and retracted position) and a fully retracted

position; a first spring (figure 1, inside 3); restraint means including a second latch (16) for manually securing the first latch in the fully retracted position (page 2, lines 1-11);

As concerns claim 44, actuator bar means (7); restraint means (19).

As concerns the limitation of "a first spring biasing the dead bolt", it would appear that the latch of Dexter would inherently comprise a spring to bias the latch. It has been held that a claim is anticipated if each element of the claim is found, either expressly described or under principles of inherency, in a single prior art reference, or that the claimed invention was previously known or embodied in a single prior art device or practice. *Kalman v. Kimberly-Clark Corp.*, 218 USPQ 789.

In the alternative, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the latch bolt of Dexter '147 with a spring bias, as taught by Hagstrom 773, in order to provide a means that would automatically bias the bolt into a latched position requiring less input from a user.

6. Claim 43 is rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,009,456 to Eck.

Eck '456 discloses ~~Dexter '147 discloses~~ a first latch (15) movable to an extended position (figure 2), a partially retracted position (position between extended and retracted position) and a fully retracted position (figure 3); a first spring (17); restraint means including a second latch (25) for manually securing the first latch in the fully retracted position.

Allowable Subject Matter

7. Claims 35, 38-41 and 50-52 are allowed.

8. Claims 42 and 45-49 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Response to Arguments

9. Applicant's arguments with respect to claims 43 and 44 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John B. Walsh whose telephone number is 703-305-0444. The examiner can normally be reached on Monday-Friday from 8:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynne H. Browne can be reached on 703-308-1159. The fax phone numbers for the

organization where this application or proceeding is assigned are 703-305-3597 for regular communications and 703-305-3597 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-2168.



**Lynne Browne
Supervisory Patent Examiner
Technology Center 3620**

JW
October 4, 2001